IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: WOOD, Sandra L.

SERIAL NO.: 10/643,305 ART UNIT: 3764

FILED: August 20, 2003 EXAMINER: Brown, M.A.

TITLE: BODY STROKING APPARATUS

Supplemental AMENDMENT "A"

Director of the U.S. Patent
and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action of July 13, 2004, a response with a one month extension of time by November 13, 2004, and in response to an advisory communication of a non-compliant amendment, having a response being due by January 7, 2005, please consider the following remarks:

REMARKS

Applicant respectfully submits the present Supplemental Amendment "A" in a revised format in response to the Notice of Non-Compliant Amendment of December 7, 2004. The Examiner indicated that the format of the Amendment should comply with 37 C.F.R. § 1.121. Applicant respectfully contends that the present amendment is now in compliance with the required amendment practice, including the missing Page 2 of the original Amendment A with Claims 21-26 shown. This new format of Supplemental Amendment "A" is now in the proper condition for consideration. Furthermore, the present supplemental amendment has been filed before expiration of the shortened statutory period for response such that a fee for extension of time is not currently due.

Upon entry of the present amendments, previous Claims 1 - 20 have been canceled and new Claims 21 - 29 substituted therefore. Reconsideration of the rejections, in light of the forgoing amendments and present remarks, is respectfully requested. The present amendments have been entered for the purpose of distinguishing the present invention from the prior art.

In the Office Action, it was indicated that Claims 1 - 5, 7, 9 - 17 and 19 - 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Brisson patent in view of the Helmer patent. Claims 6 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over these references further in view of the Gary patent.

As an overview to the present reply, Applicant has amended the original claims in the form of new independent Claims 21 and 29. New independent Claim 21 incorporates the limitations of previous Claims 1, 2, 3, 6 and 10. In particular, new independent Claim 21 recites that the rod has "an end" detachably received in the top of the L-shaped member. It is indicated that the rod extends "only upwardly therefrom". Independent Claim 21 further recites that the plurality of flexible members have a surface with a strip of complementary hook-and-loop material "removably" secured to the hook-and-loop material of the crossbar. Finally, independent Claim 21 incorporates the limitations that the plurality of flexible members extends downwardly from the crossbar from a distance less than the length of the rod. Independent Claim 29 incorporates the limitations of dependent Claims 14, 15 and 17 - 20. In particular, independent Claim 29 recites the use of the "complementary hook-and-loop material" on the crossbar and that the plurality of flexible members have a strip of hook-and-loop material thereon. It is also indicated that the flexible members extend downwardly from the crossbar for a distance less than a vertical length of the arm.

The importance of these features in the present invention was recited in the original specification on page 8, paragraph [0033] as follows:

> The arm 16 will translate back and forth in the channel 14 so that the plurality of flexible strips 60 will gently glide over the back of the human being 54 in a soft caressing manner. As such, the present invention will provide a very soft tactile sensation to the human being 54. This will create a significant stress reduction in the human body.

Additionally, and furthermore, the use of the "hook-and-loop material" allows various types of flexible strips to hang downwardly from the crossbar. This feature was recited in the original specification on page 8, paragraph [0034] as follows:

> FIGURE 3 shows a detailed view of the crossbar 18. In FIGURE 3, the crossbar 18 has a hook-and-loop material 62 affixed thereto and extending therealong. As such, the hook-and-loop material 62 will provide a suitable area whereby various types of flexible members can be secured to the crossbar 18.

Applicant respectfully contends that the prior art combination fails to show the structure of the present invention, as now claimed, along with the structure, function and the benefits of the present invention.

The prior art Brisson patent describes a massage apparatus, having a structure reminiscent to that of the present invention. However, in this massage apparatus a massager 60 is affixed to a crossbar extending outwardly of a rod associated with arm 49. The arm 49 will traverse longitudinally along channel 50 so as to provide the massaging effect. The massage apparatus is a pad that is supported by a frame which is secured along the length of the crossbar 59. The purpose of the Brisson patent is to provide a strong massaging effect to the massaging pad and the back of the human body. This does not provide the same purpose as that of the present invention, i.e. a

"tickling effect". The Brisson patent fails to show the use of the material strips, the "tickling effect", or that the rod 53 is affixed only into the opening at the end L-shaped member 51. As can be seen in Figure 2 in the Brisson patent, the massaging member 60 extends downwardly from the crossbar for a greater distance than the distance that the rod extends upwardly from the L-shaped member.

The prior art Helmer patent is an item of known prior art. As was recited in the original specification on page 2, paragraph [0005]:

> In the past, various U.S. patents have issued relating to such massaging and tactile sensation devices. For example, U.S. Patent No. 6,074,353, issued on June 13, 2000 to Y. Helmer, describes a device for caressing the body. This device has strips of flexible soft material hanging from a horizontal support above the body. A motive source is used to move the horizontal support over the body so that the strips can contact the body with varying degrees of tactile sensitivity to caress, tickle, scratch, numb and create arousal sensations. The device is provided with an arm which is rotated in a circular pattern so that periodically, the strips of flexible material will contact the human body. The strips of flexible material do not travel a longitudinal path along the human body.

The Helmer device is provided for the purpose of providing only occasional contact between the strips of material and human body. In contrast, the present invention will move the strips of material longitudinally along the human body. The Helmer patent can only be positioned so as to rotate in general proximity to the human body but will not travel a longitudinal path over the entire length of the human body. As such, it will not provide the same "caressing" effect as that of the present invention.

Applicant respectfully contends that it would not be obvious to one of ordinary skill in the art to combine the Brisson patent with the teachings of the Helmer patent. Fundamentally, it is the purpose of the Brisson patent to provide massaging "pressure" onto the massaging element and onto

the back of the human body. As such, the Brisson patent is configured so as to deliver strong pressure onto the massaging frame. This is direct contrast to the Helmer patent where only a very light occasional contact is achieved between the strips of material and the human back. In order to provide the strong contact forces, the Brisson patent utilizes a rod extending upwardly from the L-shaped member that has a length less than the distance that the massaging member extends downwardly from the crossbar. There is absolutely no suggestion or teaching in the Brisson patent as to why of one of ordinary skill in the art would ever intend to "tickle" the human body or apply the caressing forces of the device of the Helmer patent.

As stated earlier, it is an important feature of the present invention to be able replace the plurality of flexible strips with different types of flexible strips and/or beads. The prior art Gary patent discloses a "drapery system". Although this drapery system does use hook-and-loop material strips so as to secure the drapery onto hangers associated with the drapery system, the Gary patent is from a field of art far removed from either of the Helmer or Brisson patents. It is doubtful that one having ordinary skill in the art, when attempting to solve the problem of allowing for interchangeability of the flexible strips, would turn to the art of drapery. Ultimately, the drapery system of the Gary patent does not show the plurality of flexible strips, does not show that the hook-and-loop material is secured to the crossbar and does not show the interchangeability of different types of material strip in such a "body stroking apparatus". Applicant respectfully contends that it is very unlikely that one having ordinary skill in the art of the therapeutic apparatus of the Brisson patent would combine the teaching with the teachings of the Helmer or Gary patents. These patents are from a field of art very far removed from that of the Brisson patent. Additionally, and furthermore, the prior art combination would fail to show the rod having an "end" detachably

received in the top of the L-shaped member. The prior art combination would fail to show the rod as "extending only upwardly" from the L-shaped member. Additionally, and furthermore, the prior art combination would not show that the plurality of flexible members have a surface with a strip of complementary hook-and-loop material "removably secured" to the hook-and-loop material of the crossbar. Finally, the prior art combination would not suggest that the plurality of flexible members extend downwardly from the crossbar "for a distance less than the length of the rod". On this basis, Applicant respectfully contends that the present invention is different in structure, function and in results achieved from that of the prior art combination.

Relative to the claims herein, dependent Claims 22 and 23 correspond, respectively, to the limitations of previous dependent Claims 4 and 5. New dependent Claims 24 - 26 correspond, respectively, to the limitations of previous dependent Claims 7 - 9. Dependent Claims 27 - 28 correspond, respectively, to the limitations of previous dependent Claims 11 and 12.

Based upon the foregoing analysis, Applicant contends that independent Claims 21 and 29 are now in proper condition for allowance. Additionally, those claims which are dependent upon these independent claims should also be in condition for allowance. Reconsideration of the rejections and allowance of the claims at an early date is earnestly solicited. Since no new claims have been added above those originally paid for, no additional fee is required.

Respectfully submitted,

12.15.04
Date

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